A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Health Occupations Revision Act of 1985 and Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code to remove barriers to obtaining occupational licenses for individuals with criminal histories, to allow a licensing board to consider an applicant’s pending criminal accusation or prior conviction only if the pending criminal accusation or prior conviction is directly related to the occupation for which the license is sought, and to provide applicants, licensees, registrants, or persons certified whose applications or licenses, registrations, or certifications are denied, suspended, or revoked based on a pending criminal accusation or conviction with notice of the basis of the decision and an opportunity to provide mitigating evidence.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Removing Barriers to Occupational Licenses Amendment Act of 2017”.

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1201.01 et seq.), is amended as follows:

(a) Section 503(a)(1) (D.C. Official Code § 3-1205.03(a)(1)) is repealed.

(b) A new section 503a is added to read as follows:
"Sec. 503a. Criminal history inquiries.

"(a) The board regulating the health occupation shall not inquire into the criminal history of an applicant on the application for a license under this subchapter.

"(b) The board regulating the health occupation shall not inquire into or consider the criminal history of an applicant until after the applicant is found to be otherwise qualified for the license under this title.

"(c) The board regulating the health occupation shall not at any time consider, use, or disseminate the following information in connection with an application for a license:

"(1) An arrest that did not result in a conviction;

"(2) A criminal accusation made against the applicant that is not then pending or did not result in a conviction;

"(3) A conviction that has been dismissed through a deferred sentencing agreement or otherwise;

"(4) A conviction that has been sealed, expunged, vacated, or pardoned;

"(5) A juvenile adjudication; and

"(6) A conviction that is not directly related to the occupation for which a license is being sought, as determined under subsection (d) of this section.

"(d) The board regulating the health occupation must consider the following factors to determine whether a conviction is directly related to the occupation for which the license is sought:

"(1) The District’s legitimate interest in equal access to employment for individuals who have had past contact with the criminal justice system;

"(2) Whether the elements of the offense or offenses are directly related to the specific duties and responsibilities of the occupation;
“(3) Whether the occupation for which the license is sought offers the opportunity for the same or a similar offense to occur; and

“(4) Any information produced by the applicant concerning his or her rehabilitation and fitness, including:

“(A) Evidence showing that at least one year has elapsed since release from any correctional institution without subsequent conviction for a crime;

“(B) Evidence showing compliance with all terms and conditions of probation, supervised release, and parole;

“(C) Circumstances relative to the offense, including mitigating circumstances;

“(D) Age of the applicant at the time the offense was committed;

“(E) Length of time that has elapsed since the offense was committed;

“(F) Evidence of work history, particularly any training or work experience related to the occupation in question; and


“(e) After an applicant is found to be otherwise qualified for the license under this subchapter, the board regulating the health occupation may consider an applicant’s criminal history, except for the information described in subsection (c) of this section, which the board finds, pursuant to subsection (d) of this section, to be directly related to the occupation for which the license is sought.”.

(c) Section 514 (D.C. Official Code § 3-1205.14) is amended as follows:

(1) Subsection (a)(4) is amended to read as follows:
“(4) Has a pending criminal accusation or conviction into which the board regulating the health occupation is permitted to inquire and consider pursuant to section 503a.”.

(2) New subsections (f), (g), (h), and (i) are added to read as follows:

“(f) If the board regulating the health occupation intends to deny, suspend, or revoke a license, registration, or certification, because of a criminal history, the board shall notify the applicant, licensee, registrant, or person certified in writing prior to a final decision with the following:

“(1) The offense that forms the basis for the potential denial, suspension, or revocation, and the rationale for deeming the offense directly related;

“(2) A copy of any criminal record on which the board relies;

“(3) A statement that the applicant, licensee, registrant, or person certified may provide evidence demonstrating inaccuracies within the applicant’s criminal record;

“(4) Examples of additional information that the applicant, registrant, or person certified may produce to demonstrate his or her rehabilitation and fitness; and

“(5) Information about the right to request a hearing under section 519 of this subchapter and the process for making this request.

“(g) After receiving the notice of potential denial, suspension, or revocation under subsection (f) of this section, the applicant, licensee, registrant, or person certified shall have 30 business days to respond. The board regulating the health occupation shall make the final decision based on an individualized assessment of the information provided by the applicant, licensee, registrant, or person certified under subsection (f) of this section.
“(h) If the board regulating the health occupation denies, revokes, or suspends a license, registration, or certificate, solely or in part because of a criminal history, the board shall provide the applicant, licensee, registrant, or person certified in writing with the following:

“(1) The offense that forms the basis for the denial, suspension, or revocation, and the rationale for deeming the conviction to be directly related; and

“(2) The process for judicial review under section 520 of this subchapter.

“(i) Each board regulating a health occupation, before March 1 of each year, shall submit a report to the Mayor and the Council of its activities during the preceding fiscal year. The report shall include:

“(1) The total number of applications received for each type of license;

“(2) The number of successful applications for each type of license;

“(3) The total number of applicants from whom the board obtained criminal history information;

“(4) The number of applicants from whom the board obtained criminal history information that were successful in obtaining licenses;

“(5) The number of notices of intent to deny, suspend, or revoke issued;

“(6) The number of hearings following a notice of intent to deny, suspend, or revoke; and

“(7) A statement on the board’s efforts to facilitate equal access to licenses for applicants with a criminal history, in light of the District’s public policy to promote employment opportunities for people with prior contact with the criminal justice system.”.

Sec. 3. Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:
(a) Section 47-2853.12(a)(1) is repealed.

(b) A new section 47-2853.12a is added to read as follows:

"§ 47-2853.12a. Criminal history inquiries.

"(a) The board regulating the non-health related occupation shall not inquire into the criminal history of an applicant on the application for a license under this subchapter.

"(b) The board regulating the non-health related occupation shall not inquire into or consider the criminal history of an applicant until after an applicant is found to be otherwise qualified for the license under subsection (a) of this section.

"(c) The board regulating the non-health related occupation shall not at any time consider, use, or disseminate the following information in connection with an application for a license:

"(1) An arrest that did not result in a conviction;

"(2) A criminal accusation made against the applicant that is not then pending or did not result in a conviction;

"(3) A conviction that has been dismissed through a deferred sentencing agreement or otherwise;

"(4) A conviction that has been sealed, expunged, vacated, or pardoned;

"(5) A juvenile adjudication; and

"(6) A conviction that is not directly related to the occupation for which a license is being sought, as determined under subsection (d) of this section.

"(d) The board regulating the non-health related occupation must consider the following factors to determine whether a conviction is directly related to the occupation for which the license is sought:
“(1) The District’s legitimate interest in equal access to employment for individuals who have had past contact with the criminal justice system;

“(2) Whether the elements of the offense or offenses are directly related to the specific duties and responsibilities of the occupation;

“(3) Whether the occupation for which the license is sought offers the opportunity for the same or a similar offense to occur; and

“(4) Any information produced by the applicant concerning his or her rehabilitation and fitness, including:

“(A) Evidence showing that at least one year has elapsed since release from any correctional institution without subsequent conviction of a crime;

“(B) Evidence showing compliance with all terms and conditions of probation, supervised release, and parole;

“(C) Circumstances relative to the offense, including mitigating circumstances;

“(D) Age of the applicant at the time the offense was committed;

“(E) Length of time that has elapsed since the occurrence of the offense;

“(F) Evidence of work history, particularly any training or work experience related to the occupation in question; and


“(e) After an applicant is found to be otherwise qualified for the license under this subchapter, the board regulating the non-health related occupation may consider an applicant’s criminal history, excluding any information prohibited by subsection (c) of this section, which the
board finds pursuant to subsection (d) of this section to be directly related to the occupation for which the license is sought.”.

(c) Section 47-2853.17 is amended as follows:

(1) Subsection (a)(5) is amended to read as follows:

“(5) Has been convicted of a crime into which the board regulating the non-health related occupation is permitted to inquire and consider under § 47-2853.12a.”.

(2) Subsection (c-1) is repealed.

(3) Subsection (c-2) is amended to read as follows:

“(c-2) If the board regulating the non-health related occupation intends to deny, suspend, or revoke a license, registration, or certificate because of a criminal history, the board regulating the non-health related occupation shall notify the applicant, licensee, registrant, or person certified in writing prior to a final decision with the following:

“(1) The offense that forms the basis for the potential denial, suspension, or revocation, and the rationale for deeming the offense directly related;

“(2) A copy of the criminal record on which the board relies;

“(3) A statement that the applicant, registrant, or person certified may provide evidence demonstrating inaccuracies within the applicant’s criminal record;

“(4) Examples of additional information that the applicant, registrant, or person certified may produce to demonstrate his or her rehabilitation and fitness; and

“(5) Information about the right to request a hearing under § 47-2853.22 and the process for making this request.”.

(4) New subsections (c-3), (c-4), and (c-5) are added to read:
“(c-3) After receiving the notice of potential denial, suspension, or revocation under subsection (c-2) of this section, the applicant, licensee, registrant, or person certified shall have 30 business days to respond. The board regulating the non-health related occupation shall make the final decision based on an individualized assessment of the information provided by the applicant, licensee, registrant, or person certified under subsection (c-2) of this section.

“(c-4) If the board regulating the non-health related occupation denies, suspends, or revokes a license, registration, or certificate because of a criminal history, the board shall provide the applicant, licensee, registrant, or person certified in writing with the following:

“(1) The offense that forms the basis for the denial, suspension, or revocation, and the rationale for deeming the conviction to be directly related; and

“(2) The process for judicial review under § 47-2853.23.

“(c-5) Each board regulating a non-health related occupation, before March 1 of each year, shall submit a report to the Mayor and the Council of its activities during the preceding fiscal year. The report shall include:

“(1) The total number of applications received for each type of license;

“(2) The number of successful applications for each type of license;

“(3) The total number of applicants from whom the board obtained criminal history information;

“(4) The number of applicants from whom the board obtained criminal history information that were successful in obtaining licenses;

“(5) The number of notices of intent to deny, suspend, or revoke issued;

“(6) The number of hearings following a notice of intent to deny, suspend, or revoke; and
“(7) A statement on the board’s efforts to facilitate equal access to licenses for applicants with a criminal history, in light of the District’s public policy to promote employment opportunities for people with prior contact with the criminal justice system.”.

Sec. 4. Fiscal impact statement.


Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of Columbia Register.